

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

Criminal File No. 00-130 (MJD/ESS)

(1) JAMES BENJAMIN CHARLES,

Defendant.

James E. Lackner, Assistant United States Attorney, Counsel for Plaintiff

James Benjamin Charles, pro se.

This matter is before the Court on Defendant James Benjamin Charles' Pro Se Motion to Modify or Correct Judgment and Commitment under Rule 60(b). [Docket No. 111].

Charles requests that the Court modify or amend the Judgment and Commitment Order in his case to "order or recommend the Second Chance Act Program." (Charles' Motion at 1.) Charles seeks a longer term of community

confinement in order to readjust to the outside world. He recounts that he has been successful in prison and has a clear plan for reintegrating into society upon his release.

The Court does not have the power to amend Charles' Judgment and Commitment based on Charles' motion. Additionally, the Second Chance Act requires the Bureau of Prisons to evaluate Charles approximately 17-19 months before his release for community placement for up to 12 months. The Bureau of Prison is obligated to undertake this consideration independent of any order or recommendation by this Court. See, e.g., Miller v. Whitehead, 527 F.3d 752, 756 (8th Cir. 2008). Therefore, while the Court congratulates Charles on his successes in prison and urges him to continue his progress, it cannot grant his motion.

IT IS HEREBY ORDERED that:

Defendant James Benjamin Charles' Pro Se Motion to Modify or Correct Judgment and Commitment under Rule 60(b) [Docket No. 111] is **DENIED**.

Dated: June 18, 2010

s/ Michael J. Davis
Michael J. Davis
Chief Judge
United States District Court